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*Via Electronic Filing*

December 21, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth St., S.W.  
Washington, DC 20554

*Re: Notice of Ex Parte Presentation – MB Docket No. 11-154*

Dear Ms. Dortch:

This is to notify you that on December 21, 2011, Brian Markwalter and I, both of the Consumer Electronics Association (“CEA”), spoke by telephone with Bill Lake, Chief of the Media Bureau, and Michelle Carey, Alison Neplokh, Mary Beth Murphy, and Jeff Neumann, all of the Media Bureau.

During our call, we reiterated CEA’s position that, consistent with the *ACS Order*, manufacturers of covered apparatus should not be held responsible for whether third-party software downloaded by end users complies with the captioning requirements.<sup>1</sup> We further reiterated our position that “apparatus” refers to a physical device and not standalone software.<sup>2</sup>

To comply with Section 203, the manufacturer of a covered apparatus should only have to ensure that the principal means of viewing video programming, included at the time of sale, renders or displays closed captioning when provided in a standard format.<sup>3</sup> In other words, device manufacturers are responsible only for software that is pre-loaded (by the manufacturer) on devices and included in the device at the time of sale.

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<sup>1</sup> Reply Comments of CEA, MB Docket No. 11-154, at 7-8 (filed Nov. 1, 2011) (“CEA Reply Comments”).

<sup>2</sup> *Id.* at 7. See also Comments of CEA, MB Docket No. 11-154 (filed Oct. 18, 2011), at 18.

<sup>3</sup> CEA Reply Comments, at 8.

Further, the mere inclusion of video hardware and/or a generic media player in a particular apparatus cannot alone justify a finding that the device is an apparatus designed to receive, play back, or record video programming.<sup>4</sup>

Pursuant to Section 1.1206 of the Commission's rules,<sup>5</sup> this letter is being electronically filed with your office and a copy of this submission is being provided to the meeting attendees from the Commission. Please let the undersigned know if you have any questions regarding this filing.

Respectfully submitted,

/s/ **Julie M. Kearney**

Julie M. Kearney  
Vice President, Regulatory Affairs

cc: William Lake  
Michelle Carey  
Mary Beth Murphy  
Alison Neplokh  
Jeff Neumann

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<sup>4</sup> *Id.* at n. 39.

<sup>5</sup> 47 C.F.R. § 1.1206.